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any taxpayer under which such taxpayer is allowed to satisfy liability for payment of any tax in installment payments if the appropriate TTB officer determines that such agreement will facilitate collection of such liability.

(b) *Extent to which agreements remain in effect*—(1) *In general.* Except as otherwise provided in this paragraph (b), any agreement under paragraph (a) of this section shall remain in effect for the term of the agreement.

(2) *Inadequate information or jeopardy.* The officer who entered into an installment agreement under paragraph (a) of this section may terminate such agreement if:

(i) Information which the taxpayer provided prior to the date such agreement was entered into was inaccurate or incomplete, or

(ii) The appropriate TTB officer believes that collection of any tax to which an agreement under this section relates is in jeopardy.

(3) *Subsequent change in financial conditions*—(i) *In general.* If the officer who entered into an installment agreement under paragraph (a) of this section makes a determination that the financial condition of the taxpayer has significantly changed, the officer may alter, modify, or terminate such agreement.

(ii) *Notice.* Action may be taken by the appropriate TTB officer under paragraph (b)(3)(i) of this section only if:

(A) Notice of such determination is provided to the taxpayer no later than 30 days prior to the date of such action, and

(B) Such notice includes the reasons why the officer believes a significant change in the financial condition of the taxpayer has occurred.

(4) *Failure to pay an installment or any other tax liability when due or to provide requested financial information.* The officer who entered into an installment agreement under paragraph (a) of this section may alter, modify, or terminate such agreement in the case of the failure of the taxpayer:

(i) To pay an installment at the time such installment payment is due under such agreement,

(ii) To pay any other tax liability at the time such liability is due, or

(iii) To provide a financial condition update as requested by the appropriate TTB officer.

(26 U.S.C. 6159)

[T.D. ATF-301, 55 FR 47655, Nov. 14, 1990, as amended by T.D. ATF-450, 66 FR 29029, May 29, 2001]

§ 70.482 Offers in compromise of liabilities (other than forfeiture) under 26 U.S.C.

(a) *In general.* The appropriate TTB officer may compromise any civil or criminal liability arising under the provisions of 26 U.S.C. enforced and administered by TTB prior to reference of a case involving such liability to the Department of Justice for prosecution or defense. (For compromise of forfeiture liability, see § 70.484 of this part.) Any such liability may be compromised only upon one or both of the following two grounds:

(1) Doubt as to liability; or

(2) Doubt as to collectibility.

No such liability will be compromised if the liability has been established by a valid judgment or is certain, and there is no doubt as to the ability of the Government to collect the amounts owing with respect to such liability.

(b) *Scope of compromise agreement.* A compromise agreement may relate to civil or criminal liability for taxes, interest, ad valorem penalties, or specific penalties. However, a criminal liability may be compromised only if it involves a violation of a regulatory provision of 26 U.S.C., or a related statute, and then only if such violation was not deliberately committed with an intent to defraud.

(c) *Effect of compromise agreement.* A compromise agreement relates to the entire liability of the taxpayer (including taxes, ad valorem penalties, and interest) with respect to which the offer in compromise is submitted and all questions of such liability are conclusively settled thereby. Specific penalties, however, shall be compromised separately and not in connection with taxes, interest, or ad valorem penalties. Neither the taxpayer nor the Government shall, upon acceptance of an offer in compromise, be permitted to reopen the case except by reason of falsification or concealment of assets by the taxpayer, or mutual mistake of

a material fact sufficient to cause a contract to be reformed or set aside. However, acceptance of an offer in compromise of a civil liability does not remit a criminal liability, nor does acceptance of an offer in compromise of a criminal liability remit a civil liability.

(d) *Procedure with respect to offers in compromise*—(1) *Submission of offers.* (i) Offers in compromise under this section shall be submitted on TTB Form 5640.1, along with any additional information required by the officer authorized to accept or reject the offer. If the offer in compromise is based on inability to pay, the proponent must submit any financial statement required by such officer.

(ii) The offer should generally be accompanied by a remittance representing the amount of the compromise offer or a deposit if the offer provides for future installment payments. When final action has been taken, the proponent is notified of the acceptance or rejection of the offer.

(2) *Stay of collection.* The submission of an offer in compromise shall not automatically operate to stay the collection of any tax liability. However, enforcement of collection may be deferred if the interests of the United States will not be jeopardized thereby.

(3) *Acceptance.* An offer in compromise shall be considered accepted only when the proponent thereof is so notified in writing. As a condition to accepting an offer in compromise, the taxpayer may be required to enter into any collateral agreement or to post any security which is deemed necessary for the protection of the interests of the United States. If the final payment on an accepted offer is contingent upon the immediate or simultaneous release of a tax lien in whole or in part, such payment must be in cash, or in the form of a certified, cashier's, or treasurer's check drawn on any bank or trust company incorporated under the laws of the United States or any State, Territory, or possession of the United States, or by a U.S. postal, bank, express, or telegraph money order.

(4) *Withdrawal or rejection.* An offer in compromise may be withdrawn by the proponent at any time prior to its ac-

ceptance. In the event an offer is rejected, the proponent shall be promptly notified in writing. Frivolous offers or offers submitted for the purpose of delaying the collection of tax liabilities shall be immediately rejected. If an offer in compromise is withdrawn or rejected, the amount tendered with the offer, including all installments paid, shall be refunded without interest, unless the taxpayer has stated or agreed that the amount tendered may be applied to the liability with respect to which the offer was submitted.

(e) *Record.* Except as otherwise provided in this paragraph, if an offer in compromise is accepted, there shall be placed on file the opinion of counsel for the Bureau with respect to such compromise, with the reason therefor, and including a statement of:

(1) The amount of tax assessed,

(2) The amount of interest, additional amount, addition to the tax, or assessable penalty, imposed by law on the person against whom the tax is assessed, and

(3) The amount actually paid in accordance with the terms of the compromise.

However, no such opinion shall be required with respect to the offer in compromise of any civil case in which the unpaid amount of tax assessed (including any interest, additional amount, addition to the tax, or assessable penalty is less than \$50,000. However, such compromise shall be subject to continuing quality review by the Secretary.

(f) *Requirement with respect to statute of limitations.* No offer in compromise shall be accepted unless the taxpayer waives the running of the statutory period of limitations on both or either assessment or collection of the tax liability involved for the period during which the offer is pending, or the period during which any installment remains unpaid, and for one year thereafter.

(g) *Inspection with respect to accepted offers in compromise.* For provisions relating to the inspection of returns and

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accepted offers in compromise, *see* 26 U.S.C. 6103(k)(1).

(26 U.S.C. 7122)

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[T.D. ATF-301, 55 FR 47655, Nov. 14, 1990, as amended by T.D. ATF-331, 57 FR 40329, Sept. 3, 1992; T.D. ATF-450, 66 FR 29029, May 29, 2001]

§ 70.483 Offers in compromise of violations of Federal Alcohol Administration Act.

The Federal Alcohol Administration Act provides penalties for violations of its provisions. The appropriate TTB officer is authorized to compromise such liabilities. Persons desiring to submit offers in compromise may submit such offers on Form 5640.2. When the offer is acted upon, the proponent is notified of the acceptance or rejection of the offer. If the offer is rejected, the sum submitted with the offer in compromise is returned to the proponent. If the offer is accepted, the proponent is notified and the case is closed.

[T.D. ATF-450, 66 FR 29029, May 29, 2001]

§ 70.484 Offers in compromise of forfeiture liabilities.

The appropriate TTB officer is authorized to compromise liabilities to administrative forfeiture of personal property seized under the laws administered and enforced by the Bureau. Persons desiring to submit offers in compromise of such liabilities may submit such offers on Form 656-E to the appropriate TTB officer. When the offer is acted upon, the proponent is notified of the acceptance or rejection of the offer. If the offer is rejected, the sum submitted with the offer in compromise is returned to the proponent. If the offer is accepted, the proponent is notified and the case is closed. Acceptance of an offer in compromise of civil liabilities does not remit criminal liabilities, nor does acceptance of an offer in compromise of criminal liabilities remit civil liabilities.

[T.D. ATF-301, 55 FR 47655, Nov. 14, 1990, as amended by T.D. ATF-450, 66 FR 29030, May 29, 2001]

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§ 70.485 Closing agreements.

(a) *In general.* The appropriate TTB officer may enter into a written agreement with any person relating to the liability of such person (or of the person or estate for whom the person acts) in respect of any tax imposed under the provisions of 26 U.S.C. enforced and administered by the Bureau for any taxable period ending prior or subsequent to the date of such agreement. A closing agreement may be entered into in any case in which there appears to be an advantage in having the case permanently and conclusively closed, or if good and sufficient reasons are shown by the taxpayer for desiring a closing agreement and it is determined by the appropriate TTB officer that the United States will sustain no disadvantage through consummation of such an agreement.

(b) *Scope of closing agreement—(1) In general.* A closing agreement may be executed even though under the agreement the taxpayer is not liable for any tax for the period to which the agreement relates. There may be a series of closing agreements relating to the tax liability for a single period.

(2) *Taxable periods ended prior to date of closing agreement.* Closing agreements with respect to taxable periods which ended prior to the date of the agreement may relate to the total tax liability of the taxpayer or to one or more separate items affecting the tax liability of the taxpayer.

(3) *Taxable periods ending subsequent to date of closing agreement.* Closing agreements with respect to taxable periods ending subsequent to the date of the agreement may relate to one or more separate items affecting the tax liability of the taxpayer.

(c) *Finality.* A closing agreement which is approved within such time as may be stated in such agreement, or later agreed to, shall be final and conclusive, and, except upon a showing of fraud or malfeasance, or misrepresentation of a material fact:

(1) The case shall not be reopened as to the matters agreed upon or the agreement modified by any officer, employee, or agent of the United States, and

(2) In any suit, action, or proceeding, such agreement, or any determination,